

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DON HARGROVE**, on February 12, 2001 at 10:00 A.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Edward Butcher (R)
Sen. Pete Ekegren (R)
Sen. Jim Elliott (D)
Sen. Eve Franklin (D)
Sen. Ken Toole (D)

Members Excused: Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Lynette Brown, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 306, HB 80, HB 311,
1/29/2001

Executive Action:

HEARING ON SB 306

Sponsor: SEN. VICKI COCCHIARELLA, SD 32, Missoula

Proponents: Mike O'Connor, Montana Public Employee Retirement
Administration

Tom Schneider, Montana Public Employees Association
Tom Bilodeau, MEA-MFT
Sue Haverfield, Clerk of County Recorder, Flathead Co.

Opponents: Robert Barry, representing himself

Opening Statement by Sponsor:

SEN. VICKI COCCHIARELLA, SD 32, Missoula, stated this bill would revise the public retirement after 25 years; it provides an incentive for people who reach the point of 25 years to receive an increased benefit. She said those people deserve additional retirement after serving for 30 years. **SEN. COCCHIARELLA** said the state government had lost many employees over the years to the private sector because of higher salaries in the private sector. The employees addressed in this bill had shown commitment by serving beyond 25 years and should be rewarded for their service, she added.

Proponents' Testimony:

Mike O'Connor **EXHIBIT(sts35a01)** presented facts about this bill and the Public Employee's Retirement System.

Tom Schneider, Montana Public Employees Association, **EXHIBIT(sts35a02)** told the committee that if the employees worked for 30 years, they would double their retirement benefit.

Tom Bilodeau, MEA-MFT, said this bill would bring those who had served at least 25 years closer to the national average formula benefit. This was a longevity bill, keeping the employees in the positions for which they are trained for longer periods of time. **Tom Bilodeau** stated this bill came closer to meeting retirement needs and had no general fund impact. He added that this bill was good for employers and employees.

Sue Haverfield, Clerk of County Recorder for Flathead Co., told the committee this bill would help retention problems. She added the people that this bill pertained to are the people who had been trained and it was important to be able to keep those people.

Opponents' Testimony:

Robert Barry, representing himself, told the committee that he was a state employee who entered state employment later in life and, thus, would never be able to reach the 30 years addressed in this bill. He added that this bill was blatant age discrimination and state employees would be discriminated against

in this piece of legislation. **Robert Barry** stated he would like the bill to change to 56 years of age instead of saying 25-30 years of service.

Questions from Committee Members and Responses:

SEN. ED BUTCHER asked **Robert Barry** if he was eligible for a retirement system in another area. **Mr. Barry** responded that he was not.

SEN. BUTCHER asked **Robert Barry** if he agreed that the retirement system was intended for a long-term pay package. **Mr. Barry** answered that was already built into the formula. **Mr. Barry** added that because he came into state employment later in life, he brought in valuable skills also.

SEN. JIM ELLIOTT asked **Tom Schneider** if the only way the retention problem could be addressed was through the improvement in the retirement system or could it be an improved pay package. **Tom Schneider** responded that a combination of both would best solve the problem, however, there was not enough money to improve the pay packages. Therefore, they try to encourage people to work longer and also try to reward them for doing so.

SEN. ELLIOTT asked **Tom Schneider** if they were trying to keep people working longer without incurring any expenses to the general fund. **Tom Schneider** responded that was exactly what they were trying to do. He added that currently, this was the only way, in regard to the financial conditions of the state, that they could come up with a system that would possibly attract people to stay longer.

SEN. ELLIOTT asked **Tom Schneider** if the state retirement system was trying to do what the legislature would not. **Tom Schneider** responded that was correct.

SEN. BUTCHER asked **Mike O'Connor** what the actuaries were showing. **Mr. O'Connor** answered that this method would use the surplus, but still retain a cushion.

SEN. BUTCHER asked **Mike O'Connor** what the rate was for this program. **Mike O'Connor** responded that the total cost would be \$81 million, but the balance would continue to grow because they would be investing in it.

SEN. PETE EKEGREN asked **SEN. COCCHIARELLA** her opinion concerning this legislation. **SEN. COCCHIARELLA** told the committee there had been a 1990 pay study completed in which Montana would be

included with other states in having a comparable pay scale for its state workers. Montana, however, had not even kept up with the other states. Montana had not even kept up with the region they were in, she said. **SEN. COCCHIARELLA** told the committee there were too many state workers who had to hold down two jobs to make ends meet and many even had to go on food stamps. She added that even local government had surpassed state government in pay. The state pay level had gone backwards over time, she said. **SEN. COCCHIARELLA** said since retirement was based on the years of service, there was no age discrimination. She told the committee that this bill did not reduce the requirement that you work for 30 years to get the full benefit.

Closing by Sponsor:

SEN. VICKI COCCHIARELLA, SD 32, Missoula closed SB 306 by telling the committee that some of the problems the state agencies deal with existed because the employees were not staying long enough due to low salaries.

HEARING ON HB 80

Sponsor: **SEN. FRANK SMITH, HD 98, Poplar**

Proponents: Robert Throssell, Montana Association of Clerk and
Recorders
Sue Haverfield, Clerk of County Recorder, Flathead
County

Opponents: Gerald Failing, Fort Peck Visiting Project
Arlyn Headdress, Fort Peck Tribes
Bill Whitehead, representing himself
Jeanette Charbenau, Fort Peck Tribes
Carol Juneau, representing herself

Opening Statement by Sponsor:

SEN. FRANK SMITH, HD 98, Poplar **EXHIBIT(sts35a03)**, opened by telling the committee this bill would simplify a part of the election process and shared testimony **EXHIBIT(sts35a04)** by Gary Macdonald, Roosevelt County Commissioner, expressing support for this bill. **SEN. SMITH** stated people were complaining about the election process and registration. He said there was confusion about district lines and when people didn't know what precinct they were in, they did not know where to vote. He defined a residential address as the place where you reside. Under the

present system, a residential address could even refer to a park bench.

Proponents' Testimony:

Robert Throssell, Montana Association of Clerk and Recorders, told the committee his association supported this bill. He added that presently, the forms do not follow-up or make it clear what the elector was supposed to provide and what would happen if the elector did not provide that residence information. Without knowing where a voter resides, it was impossible to put them into precincts and put them into the proper district to enable them to vote in the proper location. **Robert Throssell** said this bill was not an issue of not wanting people to vote, but of simply asking where the voters consider their home to be so they could be placed in the proper district.

Sue Haverfield, Clerk of County Recorder, Flathead County, told the committee they need to be able to have an address for residence so the voters could be put in the right precinct for voting.

Opponents' Testimony:

Gerald Failing, representing himself, said since the present law already states that the Clerk of County Recorder could declare the precinct for people to vote in, then a new law was not needed. He added there were also other state programs such as drivers license programs that could take care of this concern. **Gerald Failing** said this bill would be a hindrance. He urged the committee to study the National Voter's Right Act.

Arlyn Headdress, Fort Peck Tribes, EXHIBIT(sts35a05) said that his people were getting to the point of realizing the importance of registering to vote, and it was feared that this bill would deter that progress.

Bill Whitehead, representing himself, expressed concern about this bill and distributed a letter to the committee members from Margaret Campbell **EXHIBIT(sts35a06)**.

Jeanette Charboneau, Fort Peck Tribes, said she worked with the Voting Project. When voters were registered, she said, they try very hard to get the physical address of the voters before the information is given to the Clerk of Recorders; consequently, she added, the Clerk of Recorders would not have much work to do in that area. **Ms. Charboneau** stated there was no need for this bill. This bill would put an impact on rural areas and reservations, she said.

REP. CAROL JUNEAU, HD 85, told the committee this bill would be a detriment to voter registration projects and, therefore, felt this bill was not necessary. **REP. JUNEAU** distributed a letter from Ben Spealethunder, Fort Belknap Indian Community, stating opposition to this bill **EXHIBIT(sts35a07)**. **REP. JUNEAU** requested Section 2 be eliminated if this bill was passed.

Informational Testimony:

Elaine Graveley, Deputy Secretary of State, EXHIBIT(sts35a08) said her office was willing to help implement HB 80 if passed.

Questions from Committee Members and Responses:

SEN. EKEGREN asked **REP. SMITH** if this bill was about the Native Americans or rural areas or both. **REP. SMITH** answered that this bill was not just about Native Americans. **REP. SMITH** added that since the districts changed boundaries, it was very difficult for people to know what district they were in and where to vote.

SEN. EKEGREN asked **REP. SMITH** why the reservations were not notified. **REP. SMITH** replied that in the past, the Native Americans had not been notified about issues unless they had a lobbyist keeping them informed. **REP. SMITH** agreed with **SEN. EKEGREN** that there had been some discrimination in the past. **REP. SMITH** added that people using park benches to sleep on and thus declare that bench as their place of residence might leave room for fraud by registering in more than one district and actually voting twice.

SEN. ELLIOTT asked **Sue Haverfield** what percentage of people did not have a proper address on the forms. **Sue Haverfield** responded that she had no statistical report. She said the people were contacted by letter and by phone, adding that the problem occurred when those people move.

SEN. ELLIOTT asked **Thomas Christian** if the two main concerns about this bill were (1) the worry about disenfranchisement for not providing the proper address and (2) the worry that the tribal governments were not consulted before this bill was brought forth. **Thomas Christian** agreed.

SEN. ELLIOTT asked **Thomas Christian** if there something could be done to this bill to make it acceptable to the tribes. **Thomas Christian** replied that it was important to understand the differences in how the Native Americans live their lives, how they think, and how their decisions are made. He added that this

bill would give legal avenue to reject the Native American vote. **Thomas Christian** said this bill was a manipulation of the system.

SEN. KEN TOOLE asked **Bob Throssell** if he had thought about the Windy Boy case, the current litigation in Blaine County, and the Voting Rights Act for compliance with federal voting rights issues. **Bob Throssell** responded he had not.

SEN. TOOLE asked **Elaine Gravely** what happens presently when someone appears with no physical address. **Elaine Gravely** answered that they would send a copy of the form back to the P.O. Box listed, asking them to draw on the back of the card their place of residence if they did not have an actual street address.

SEN. TOOLE asked **Elaine Gravely** what they do if they cannot get the information to put them in the proper precinct. **Elaine Gravely** responded that they would put the person on temporary status, then when the person actually came in, they are registered for that precinct.

SEN. TOOLE asked **REP. SMITH** if the Human Rights Network had actually testified for this bill in the House of Representative. **REP. SMITH** answered they did not because they were testifying on another bill at the time.

SEN. TOOLE asked **REP. SMITH** if the Human Rights Network supported this bill. **REP. SMITH** answered that, yes, they did.

SEN. BOHLINGER expressed concern to **REP. SMITH** about this bill not being discussed with the tribal government first. **SEN. BOHLINGER** said it appeared the tribes felt left out of the process. **REP. SMITH** responded that some of the tribal board members he had talked to had supported this bill. **REP. SMITH** said he thought someone misinterpreted the intent of this bill.

SEN. DON HARGROVE asked **REP. SMITH** if the new Section - part 2 - was because the tribal government was a separate government and, therefore, needed to be notified. **REP. SMITH** answered that was correct, however, in the past, they weren't advised on many things.

SEN. HARGROVE asked **Robert Throssell** if it would be reasonable to make the people responsible for deciding what precinct they lived in. **Robert Throssell** said in response to the precinct designation, the problem was that the people many times don't know what precinct they live in.

Closing by Sponsor:

SEN. FRANK SMITH, HD 98, Poplar closed HB 80.

HEARING ON HB 311

Sponsor: REP. GAY ANN MASOLO, HD 40, Townsend

Proponents: Duane Halverson, representing himself

Opponents: None

Opening Statement by Sponsor:

REP. GAY ANN MASOLO, HD 40, Townsend, said this bill would strive for a more uniform evacuation plan in the case of fires.

Proponents' Testimony:

Duane Halverson, representing himself, said there were three types of evacuation procedures: (1) the designated person would tell the resident that they needed to leave, but the resident could choose whether they wanted to leave or stay, (2) the same format, but the resident could sign a form saying they had been notified, but didn't want to leave, and (3) a mandatory leave with no choice given upon which handcuffs and two guards would be used to remove the resident. Duane Halverson added that he wanted to present a more uniform evacuation procedure. He told the committee that he lived in an area that was evacuated during the fires of the summer of the year 2000. Duane Halverson told the committee that he was ordered to leave his property during the fires, but since he had equipment ready, water stored to help fight the fire, and had fought fires in the past, he chose to stay on his property. He added that he was not proud of the fact that when ordered to leave, he showed them that he was armed in the hopes of diffusing the situation immediately. He said that may have been a poor choice on his part to handle the situation that way. Duane Halverson said it was his choice to attempt to save and protect his property. He said in this bill, he would like to present an evacuation procedure that would be uniform and wouldn't be left up to the individual's judgement at the time. He would like a consistent policy. Duane Halverson said under current law regarding evacuation, people were addressed only once. This bill would give the evacuation personnel a frame of reference. Mr. Halverson stated he had met with Governor Martz, the sheriff's department, and the county commissioners and they all supported this concept of having some uniform policy. Duane

Halverson expressed concern about how to set up liability for the officer and would like that included in Section 10-3111 in statutory law in this bill whereas the officer would be declared immune from a family being able to sue the officer if someone was injured or killed following the evacuation order refusal.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. TOOLE asked **Duane Halverson** what the situation would be for children in the household during an evacuation order. **Duane Halverson** answered he felt the family was a unit and the parents should decide what was best for the family.

SEN. HARGROVE asked **Duane Halverson** to comment on having the resources present to fight the fires, but the resources were not being used, however, upon looking further into the situation, there were probably sound reasons for doing that. **Duane Halverson** replied that when the resources are there and are not being used, when a property owner needed those resources very badly, it very frustrating.

Informational Testimony:

Steve Knecht, Disaster Emergency Services, said the governor had not ordered evacuations in the past with the responsibility of that being given to the local jurisdiction. He added there was training given for disaster evacuation procedures.

Closing by Sponsor:

REP. GAY ANN MASOLO, HD 40, closed HB 311 by telling the committee that it was already in statute that the Governor may direct and compel to evacuate all or part of the population from an emergency or disaster areas in the state.

Committee Discussion:

The committee voted whether or not to pursue **SEN. Elliott's** committee bill concerning voice mail overuse in state government by limiting the amount of time allowed until the public could reach a human voice.

Motion/Vote: **SEN. ELLIOTT** moved that **VOICE MAIL COMMITTEE RESOLUTION BE MADE INTO A COMMITTEE BILL. Motion failed 5-3** because a 3/4 vote was needed to make a committee bill.

Motion/Vote: SEN. TOOLE moved that MCCAIN FINE GOLD RESOLUTION
BECOME A COMMITTEE BILL BE ADOPTED. Motion failed 3-5.

ADJOURNMENT

Adjournment: 12:00 A.M.

SEN. DON HARGROVE, Chairman

LYNETTE BROWN, Secretary

DH/LB

EXHIBIT (sts35aad)